

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

WILLIAM S. YANCEY, individually and on
behalf of others similarly situated,

Plaintiff,

vs.

REMINGTON ARMS COMPANY, LLC.,
CASCADE CARTRIDGE, INC. A/K/A CCI
AMMUNITION

Defendants.

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) Civil Action No. 11-cv-00108
)
) Judge William J. Haynes, Jr.
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**DEFENDANT REMINGTON ARMS COMPANY’S MOTION TO DISMISS FOR
FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**

Defendant, REMINGTON ARMS COMPANY, INC. (“Remington”) respectfully moves this Court pursuant to Fed. R. Civ. P. 12(b)(6) for an order dismissing the Complaint of the Plaintiff, William S. Yancey. For the following reasons, Plaintiff has failed to state a claim upon which relief can be granted:

1. The Complaint fails to state a claim under the Magnuson-Moss Warranty Act (“MMWA”) because (a) it is time-barred by the statute of limitations, (b) Plaintiff has not adequately alleged an injury or damages, (c) the alleged warranty underlying his MMWA claim did not constitute part of the basis of the bargain between the parties, as required by the MMWA, and (d) the Complaint fails to state a claim for breach of implied warranty because Plaintiff is not in privity with Defendant Remington.

2. The Complaint fails to state a claim under the N.C. Monopolies, Trusts, and Consumer Protection Act because (a) Plaintiff has not adequately alleged any unfair or deceptive trade acts, (b) he has not adequately alleged that he relied upon any statements, and (c) he has not adequately alleged an injury or damages.

3. The Complaint fails to state a claim for unjust enrichment because (a) an express contract exists, (b) Plaintiff did not confer a benefit onto Defendant, and (c) Plaintiff has not exhausted all remedies against those with whom he is in privity.

The Memorandum in Support and Attachments filed herewith set forth the basis for this Motion and are incorporated herein by reference.

DATED: March 6, 2012

Respectfully submitted,

/s/ F. Laurens Brock

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**ATTORNEYS FOR DEFENDANT
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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2012, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System, which shall send notification of such filing to the following:

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/s/ F. Laurens Brock

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